

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

ROY A. BROWN,

Plaintiff,

*versus*C. STRICKLAND, *ET AL.*,

Defendants.

§
§
§
§
§
§
§
§
§

CIVIL ACTION H-09-3248

Opinion on Dismissal

Roy A. Brown, a detainee in the Joe Corley Detention Center, sues Warden C. Strickland, Nurse Jane Stubblefield, and Geo-Care for civil rights violations. He is proceeding as a pauper. Brown's claims follow.

When Brown arrived at the detention center, he told the medical staff about the medications he was taking for his serious blood pressure condition. His blood pressure was in the "severe stage." Medical personnel took action to stabilize his blood pressure. The next afternoon, a nurse's aide gave Brown two packets of medicine to keep on his person and take periodically. She also gave him one pill of a different medication to consume immediately. Brown did not recognize this other medication. Nurses and aides gave him this second medication for several days.

On September 5, 2009, a nurse gave Brown a 30-day pack of the second medication. Then, Brown began suffering a negative reaction to the medication, consisting of impaired vision, weakness, and muscle pain. Brown complained to a nurse about the second medication and asked to see a doctor. The nurse and doctor called him to the clinic and told him the nurse's aide had been giving him someone else's medication. Brown contends that a mistake like this could have been worse—that giving him the wrong medication could have been fatal.

The standard in medical care claims is "deliberate indifference to serious medical needs." *Estelle v. Gamble*, 429 U.S. 97, 104 (1976). Neither simple negligence nor gross negligence is enough for constitutional liability. *Hare v. City of Corinth, Ms.*, 74 F.3d 633, 645 (5th Cir. 1996). A simple mistake does not violate the Constitution.

Brown does not state a claim recognized at law. This case is dismissed. 28 U.S.C. §

1915(e)(2)(B)(i),(ii). Brown's motion to proceed as a pauper (2) is granted. The Joe Corley Detention Center will deduct 20% of each deposit made to Brown's inmate trust account and pay this to the court regularly, when the account exceeds \$10, until the filing fee, \$ 350, is paid.

The clerk will send a copy to the District Clerk for the Eastern District of Texas, Tyler Division, 211 West Ferguson, Tyler, Texas 75702, Attention: Three Strikes List.

Signed October 20, 2009, at Houston, Texas.

A handwritten signature in black ink, appearing to read 'Lynn N. Hughes', written over a horizontal line.

Lynn N. Hughes
United States District Judge